



the Commission's rate cap and rate parity rules and that it violated those rules by filing tariffs containing rates exceeding those prescribed by the Commission." As to Aureon's 2013 tariff, the FCC determined that the filing was "unlawful when filed and void *ab initio*."<sup>2</sup> The FCC further found that "[f]or purposes of the *USF/ICC Transformation Order* and the attendant rules, Aureon is a CLEC."<sup>3</sup>

On February 22, 2018, Aureon filed the instant tariff with a revised rate for switched transport of \$.00576 per minute of use, with the representation that it is a "single non-distance-sensitive rate. Aureon asserts that the tariff filing complies with various FCC orders and rules. However, despite citing to the AT&T Order directing Aureon that the "revised tariff is to be compliant with the Commission's rate cap requirements and must include required cost support" INS provides no explanation of what the appropriate cap or the how the tariff complies with the rate cap and parity requirements.

As a CLEC, Aureon is required by Commission orders, rules, and the *AT&T Order* to benchmark its rates to those of the competing ILEC.<sup>4</sup> In this circumstances, the competing ILEC is Qwest Corporation, d/b/a CenturyLink ("CenturyLink"). Based on a comparison of the tariff rate and the competing tandem provider and depending on the exact mileage, Aureon's rate would be less than half of its proposed rate if appropriately benchmarked to CenturyLink as the Commission's rules require.

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<sup>2</sup> *AT&T Order*, para. 29.

<sup>3</sup> *Id.*, para. 25.

<sup>4</sup> See *Access Charge Reform, Reform of Access Charges Imposed by Competitive Local Exchange Carriers*, Seventh Report and Order and Further Notice of Proposed Rulemaking, 16 FCC Rcd 9923, 9926, para. 8 (2001) and 2011 *USF-ICC Transformation Order*, para. 801.

If allowed to go into effect, Aureon's tariff will not be in compliance with the Commission's prior rulings, the *2011 USF-ICC Transformation Order* and the *AT&T Order* determination that Aureon is required to comply with the rate cap and rate parity rules. Therefore, Aureon's tariff should be rejected, or suspended and investigated.

The applicable standard of review for a petition challenging a tariff filed is set forth in 47 C.F.R. § 1.773. Sprint's petition meets the criteria for suspending Aureon's tariff.

First, as demonstrated above, Aureon's tariff fails to comply with the *AT&T Order* and fails to comply with FCC's requirements, including requirements established in the *2011 USF-ICC Transformation Order*, and is therefore unlawful.

Second, there will be no injury to the public. Suspension of the tariff revisions will not stop Aureon from providing service to the carriers that use Aureon tandem and transport functions to exchange traffic.

Third, Petitioners will be irreparably injured as described above because, absent Commission action, the tariff revision will acquire deemed lawful status that Aureon will argue precludes future Commission review of the lawfulness of the rates and terms contained within the revisions for retrospective periods.<sup>5</sup>

Finally, suspension upholds the public interest because the public has a strong interest in ensuring that carriers comply with the Commission's rules. Suspending this tariff and rejecting

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<sup>5</sup> As to the July 2013 tariff Aureon contended "that the CEA rate contained in its June 17, 2013, interstate tariff filing took effect on July 2, 2013, because the Commission neither suspended nor investigated the rate increase, and therefore it is "deemed lawful."" The FCC found otherwise "We disagree. Aureon's Tariff was not "deemed lawful" when filed. Nothing in Section 204(a)(3) of the Act transforms rates, terms, or conditions that are unlawful when filed into "deemed lawful" status." *AT&T Order* at para. 29.

the tariff language as described above will help ensure that carriers do not unlawfully charge rates that fail to comply with the FCC orders, rules and regulations.

For all of the reasons set forth above, Sprint urges the FCC to reject Aureon's tariff revisions, or, in the alternative, suspend and investigate the revisions.

Respectfully submitted,

**SPRINT COMMUNICATIONS COMPANY L.P.**



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February 26, 2018

### Certificate of Service

I hereby certify that on this 26th day of February, 2018, I caused a true and correct copy of the foregoing Petition to be served by e-mail to:

James Troup  
Attorney for Iowa Network Services, Inc., d/b/a Aureon Network Services  
Fletcher, Heald & Hildreth  
1300 North 17<sup>th</sup> Street, 11<sup>th</sup> Floor  
Arlington, VA 22209

Additionally, I caused a true and correct copy of the foregoing Petition to be served electronically through the Commission's Electronic Tariff Filing System. I served the following Commission staff by e-mail:

Pamela Arluk  
Chief, Pricing Policy Division  
Wireline Competition Bureau  
Federal Communications Commission  
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